

REMARKS

Claims 1, 28, 33, 34, 38 and 39, as amended, remain herein. Claims 22, 23, 27, 30, 32 and 35-37 have been cancelled without prejudice. Claims 1 and 34 have been amended. New claims 38 and 39 have been added. Support for the amendments and the new claims may be found throughout the specification (see, e.g., original claims; page 48, line 8 to page 50, line 27; and page 52 of the specification).

1. Claims 22, 23, 30 and 35-37 were rejected under 35 U.S.C. § 102(b) over Keisuke et al. JP 2002/367784. Claims 22, 23, 30 and 35-37 have been cancelled thereby mooting this rejection.

2. Claims 1, 22, 23, 28, 30 and 32-37 were rejected under 35 U.S.C. § 103(a) over Tanaka et al. U.S. Patent 6,107,734 in view of Mori U.S. Patent 6,215,245 and Tsutsui et al. U.S. Patent Application Publication 2003/0127967. Claims 22, 23, 30, 32 and 35-37 have been cancelled thereby mooting the rejection of those claims.

Applicants' claim 1 recites an organic electroluminescent device comprising: at least two or more emitting layers between an anode and a cathode, and an intermediate electrode layer between emitting layers, the intermediate electrode layer being a single layer or a multilayer structure, at least one of the layers comprising a semiconductive material, the semiconductive material comprising at least one conductive oxide comprising a transition metal selected from the group consisting of NbO_x, LaO_x, NdO_x, SmO_x, EuO_x, MoO_x, ReO_x, WO_x, OsO_x, IrO_x and PtO_x, wherein x is 0.2 to 5.

9. (withdrawn) The method of claim 1, wherein the inhibitor decreases transcription of Fortilin.
10. (withdrawn) The method of claim 1, wherein the inhibitor decreases translation of Fortilin.
11. (withdrawn) The method of claim 1, wherein the inhibitor specifically binds Fortilin.
12. (withdrawn) The method of claim 11, wherein the inhibitor is an antibody.
13. (withdrawn) The method of claim 1, wherein the inhibitor is provided to the cell by an expression cassette comprising a nucleic acid segment encoding the inhibitor.
14. (withdrawn) The method of claim 1, wherein the inhibitor of Fortilin is a nucleic acid containing a promoter operably linked to a nucleic acid segment encoding at least 30 contiguous nucleotides of SEQ ID NO:1. .
15. (withdrawn) The method of claim 14, wherein the nucleic acid segment is positioned, in reverse orientation, under the control of a promoter that directs expression of an antisense product.
16. (withdrawn) The method of claim 1, wherein the cell is in an animal.
17. (withdrawn) A method of treating a patient with a hyperproliferative disease or condition comprising administering to the patient an amount of a Fortilin inhibitor effective to reduce Fortilin activity, thereby conferring a therapeutic benefit on the subject.
18. (withdrawn) The method of claim 17, wherein the hyperproliferative disease or condition is cancer.

19. (withdrawn) The method of claim 18, wherein the cancer is cancer of the bladder, blood, bone, bone marrow, brain, breast, colon, esophagus, gastrointestinal, gums, head, kidney, liver, lung, nasopharynx, neck, ovary, prostate, skin, stomach, testis, tongue, or uterus.
20. (withdrawn) The method of claim 17, wherein the hyperproliferative disease or condition is atherosclerosis.
21. (withdrawn) The method of claim 17, wherein the Fortilin inhibitor is provided to the patient by an expression vector comprising a promoter operably linked to a nucleic acid sequence encoding the inhibitor.
22. (withdrawn) The method of claim 21, wherein the expression vector comprises a viral vector.
23. (withdrawn) The method of claim 22, wherein the viral vector is a vaccinia virus, adenovirus, herpesvirus, retrovirus, cytomegalovirus, and adeno-associated virus.
24. (withdrawn) The method of claim 21, wherein the expression vector is delivered endoscopically, intravenously, intralesionally, percutaneously, or subcutaneously.
25. (withdrawn) The method of claim 21, further comprising administering a second anti-cancer treatment.
26. (withdrawn) The method of claim 21, wherein the second anti-cancer treatment is surgery, gene therapy, chemotherapy, radiotherapy, or immunotherapy.
27. (withdrawn) The method of claim 26, wherein the second anti-cancer treatment is chemotherapy.
28. (withdrawn) The method of claim 27, wherein the chemotherapy comprises etoposide.

29. (withdrawn) A method of treating a patient with cancer comprising administering to the a subject a Fortilin modulator and a second anti-cancer treatment.

30. (withdrawn) The method of claim 29, wherein the second anti-cancer treatment is surgery, gene therapy, chemotherapy, radiotherapy, or immunotherapy.

31. (withdrawn) The method of claim 29, wherein the second anti-cancer treatment is chemotherapy.

32. (withdrawn) The method of claim 31, wherein the chemotherapy comprises etoposide.

33. (withdrawn) A method of inhibiting apoptosis in a cell comprising providing to the cell a Fortilin polypeptide in an amount effective to inhibit apoptosis in the cell.

34. (withdrawn) The method of claim 33, further comprising administering a Fortilin enhancer in an amount effective to increase Fortilin activity.

35. (withdrawn) The method of claim 33, wherein the cell is provided a Fortilin polypeptide by providing an expression vector comprising a polynucleotide encoding a Fortilin polypeptide under the transcriptional control of a promoter, wherein the cell expresses the Fortilin polypeptide.

36. (withdrawn) A method of inhibiting apoptosis in a cell comprising administering to the cell an expression vector comprising a polynucleotide encoding a Fortilin polypeptide under the transcriptional control of a promoter, wherein expression of the Fortilin polypeptide is at a level effective to inhibit apoptosis in the cell.

37. (withdrawn) The method of claim 36, wherein the Fortilin polypeptide comprises at least 20 contiguous amino acids from SEQ ID NO:2.

38. (withdrawn) The method of claim 36, wherein the polynucleotide comprises at least 40 contiguous nucleic acids from SEQ ID NO:1.

39. (original) A method of identifying a modulator of a Fortilin polypeptide comprising:

- (a) contacting the Fortilin polypeptide with a candidate substance; and
- (b) assaying whether the candidate substance modulates the Fortilin polypeptide.

40. (original) The method of claim 39, wherein the assaying compares the activity of the Fortilin polypeptide in the presence and absence of the candidate substance.

41. (original) The method of claim 39, wherein the assaying is done by determining whether the candidate substance specifically interacts with the Fortilin polypeptide.

42. (original) The method of claim 39, wherein the modulator inhibits Fortilin.

43. (original) The method of claim 42, wherein the modulator inhibits Fortilin by preventing its binding activity.

44. (original) The method of claim 40, wherein the modulator enhances Fortilin.

45. (currently amended) The method of claim 44, wherein the modulator increases or decreases the half-life of Fortilin [expression].

46. (original) The method of claim 41, wherein the assaying is done by determining whether a p53-Fortilin interaction is disrupted.

47. (original) The method of claim 41, wherein the assaying is done by determining whether a MCL1-Fortilin interaction is disrupted.

48. (withdrawn) A method of diagnosing cancer in a subject suspected of having cancer comprising:

- (a) obtaining a sample from the subject;
- (b) evaluating Fortilin in the sample.

49. (withdrawn) The method of claim 48, wherein evaluating Fortilin comprises assaying the amount of Fortilin polypeptide.

50. (withdrawn) The method of claim 49, wherein the assaying employs an antibody that specifically binds Fortilin.

51. (withdrawn) The method of claim 48, wherein evaluating Fortilin comprises evaluating a genomic DNA sequence encoding Fortilin.

52. (withdrawn) The method of claim 48, wherein evaluating Fortilin comprises evaluating the amount of messenger RNA encoding Fortilin.

53. (withdrawn) A method of preventing apoptosis in a cell comprising providing to the cell an effective amount of Fortilin polypeptide, wherein the Fortilin polypeptide binds MCL1 in the cell and the cell does not undergo apoptosis mediated by p53.

54. (withdrawn) The method of claim 52, wherein the Fortilin polypeptide comprises 20 contiguous amino acids of SEQ ID NO:2.

55. (withdrawn) The method of claim 52, wherein the Fortilin polypeptide comprises amino acids 5 to 22 of SEQ ID NO:2.

56. (withdrawn) The method of claim 52, wherein the Fortilin polypeptide is provided to the cell by an expression vector comprising a promoter operably linked to a nucleic acid sequence encoding Fortilin.

57. (withdrawn) The method of claim 53, wherein the cell is a muscle cell.

58. (withdrawn) The method of claim 57, wherein the muscle cell is a myocyte.

59. (withdrawn) The method of claim 53, wherein the cell is a neuronal cell.

60. (withdrawn) A method of treating a patient with a spinal cord injury comprising administering to the subject an effective amount Fortilin, wherein a therapeutic benefit is conferred to the subject.

61. (withdrawn) A method of preventing muscle atrophy in a subject comprising administering to the subject an effective amount of Fortilin to inhibit apoptosis in a muscle cell.

62. (withdrawn) A method of treating a patient with myocarditis or acute myocardial infarction comprising administering to a myocyte cell in the subject an effective amount of Fortilin to inhibit apoptosis of the myocyte cell.

63. (new) The method of claim 39, wherein the candidate substance is a polypeptide.

64. (new) The method of claim 63, wherein the polypeptide is an antibody.

65. (new) The method of claim 39, wherein the candidate substance is a nucleic acid.

66. (new) The method of claim 39, wherein the candidate substance is a small molecule.

67. (new) The method of claim 39, wherein the Fortilin polypeptide is in a cell.

68. (new) A method of identifying a modulator of a Fortilin polypeptide comprising:

- (a) contacting a candidate modulator with a cell expressing the Fortilin polypeptide;
- (b) measuring the level of Fortilin activity or expression of the cell; and,
- (c) comparing the level of Fortilin activity or expression of the cell to the level of Fortilin activity or expression of a cell not contacted with the candidate modulator,

wherein a difference between the level of Fortilin activity or expression indicates that the candidate modulator is a modulator of a Fortilin polypeptide.

69. (new) The method of claim 68, wherein the level of Fortilin activity is measured.
70. (new) The method of claim 69, wherein the Fortilin activity is protein binding.
71. (new) The method of claim 70, wherein the Fortilin activity is p53 binding.
72. (new) The method of claim 69, wherein the Fortilin activity is MCL1 binding.
73. (new) The method of claim 69, wherein the Fortilin activity is cell cycle progression.
74. (new) The method of claim 69, wherein the Fortilin activity is prevention of apoptosis.
75. (new) The method of claim 68, wherein the level of Fortilin expression is measured.
76. (new) The method of claim 75, wherein the level of Fortilin polypeptide is measured.
77. (new) The method of claim 75, wherein the level of Fortilin mRNA is measured.
78. (new) The method of claim 75, wherein Fortilin half-life is measured.
79. (new) The method of claim 68, wherein the candidate substance is a polypeptide.
80. (new) The method of claim 79, wherein the polypeptide is an antibody.
81. (new) The method of claim 68, wherein the candidate substance is a nucleic acid.
82. (new) The method of claim 81, wherein the nucleic acid comprises at least 20 contiguous nucleotides identical or complementary to SEQ ID NO:1.

83. (new) The method of claim 68, wherein the candidate substance is a small molecule.

II. RESPONSE TO RESTRICTION REQUIREMENT

In response to the restriction requirement which the Examiner imposed, Applicants elect, without traverse, to prosecute claims 39-47, *i.e.*, the Group VI claims.

Claims 63-83 are added. These claims are believed to be consistent with Applicants' election. Support for the new claims can be found in the specification at least on page 5, lines 24-26; 9, lines 1-18; page 21, lines 25-28; page 68, lines 14-17; page 87, lines 28-29; and, page 106 to page 109. Thus, no new matter is being added to the application.

The Examiner is invited to contact the undersigned attorney at (512) 536-3081 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



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